

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

GARY BRICE McBAY,
Plaintiff,

VERSUS CIVIL ACTION NO: 1:07cv1205LG-RHW

HARRISON COUNTY, MISSISSIPPI,
by and through its Board of
Supervisors; HARRISON COUNTY

SHERIFF, George Payne, in his
official capacity; CORRECTIONS
OFFICER MORGAN THOMPSON,
acting under color of state law,
Defendants.

**30 (b) (6) DEPOSITION OF HARRISON
COUNTY SHERIFF'S DEPARTMENT,
GIBRAN WERBY, DESIGNEE**

Taken at the offices of Dukes, Dukes,
Keating & Faneca, P.A., 2909 13th
Street, Sixth Floor, Gulfport,
Mississippi, on Friday, October 2, 2009,
beginning at 9:07 a.m.

APPEARANCES:

MARK V. WATTS, ESQUIRE
Brown Buchanan, P.A.
796 Vieux Marche' Mall, Suite 1
Biloxi, Mississippi 39530
ATTORNEY FOR PLAINTIFF

COPY

1 MS. BROOM:

2 That's fine.

3 MR. WATTS:

4 Q. So were you with Harrison County after
5 the storm for just a month or was it a few months
6 after?

7 A. Oh, no. It was a just -- it was a very
8 short period of time. Until the FBI came back up,
9 then I went back with them.

10 Q. Okay. And so when you were there, you
11 had occasion to work on an incident with an
12 arrestee named William David Seal?

13 A. I did.

14 Q. And how did you get that assignment?

15 A. As it normally was done through the
16 sheriff who directed Steve Campbell who directed
17 me.

18 Q. And when you would get an assignment to
19 go and do an investigation, what would be the
20 first things you would do to start that
21 investigation?

22 A. Read whatever report was available from
23 the complainant, if it was an outside complaint.
24 If it was an internal type of thing, I would read
25 whatever reports were generated from the internal

1 side.

2 Q. And specifically as to Mr. Seal, what
3 reports did you read initially to get you started
4 on this investigation?

5 A. An e-mail that was sent from Mr. Seal to
6 the sheriff or to the warden. I'm not sure.

7 Q. Do you remember what the complainant or
8 the e-mail said?

9 A. Yes.

10 Q. What did it say?

11 A. Basically that he was -- he was claiming
12 that he was beaten, that he was not given
13 medication, that he was not treated by the medical
14 staff, that he didn't have a spoon, that he didn't
15 have proper hydration, things like that.

16 Q. After you read the e-mail and the
17 complaint, what was the next thing you did as far
18 as the investigation?

19 A. Attempted to determine who -- which
20 officers was working at the time. I came up with
21 when he was checked into the jail, when did he
22 come in, tried to get any reports that were
23 available, who were the officers involved and so
24 forth.

25 Q. Were there any reports such like that

1 MR. WATTS:

2 Let's go off the record for a couple
3 minutes and let me read this.

4 (Off the record.)

5 MR. WATTS:

6 Q. I marked your notes you just gave us as
7 Exhibit 20. On the second page of your notes, it
8 says that -- I believe this is what it says,

9 Morgan Thompson was struck by Seal and Wills used
10 brachial plexus stun on him.

11 A. Wills stated he used a brachial plexus
12 stun on him.

13 Q. And does it say Morgan Thompson -- is
14 this, was struck by Seals?

15 A. Right. That was what Wills --

16 Q. That's what Wills told you?

17 A. Right.

18 Q. That Morgan Thompson was physically
19 struck by Seals?

20 A. Yes.

21 Q. And on the third page, it says that
22 Mr. Seal was -- put Seal in choke hold, cuff him
23 as tight as can. Is that what Mr. Wills told you?

24 A. No.

25 Q. What is that note in reference to?

1 A. Right.

2 MR. WATTS:

3 I'm done. No more questions.

4 EXAMINATION

5 BY MR. BRENDEL:

6 Q. My name is Ian Brendel. I represent
7 some of the various correctional officers at the
8 jail. I just have one follow-up question that I

9 can think of right now. You mentioned earlier you
10 had viewed the videotape with Mr. Seal and
11 Mr. Thompson and another correctional officer; is
12 that correct?

13 A. With another correctional officer?

14 Q. Yes, sir.

15 A. I reviewed it with Captain Campbell. He
16 and I reviewed the tape together.

17 Q. Bottom line is, you saw the tape --

18 A. Yes.

19 Q. -- where Mr. Seal made the complaints in
20 his e-mail and other things about what happened to
21 him at the jail; is that correct?

22 A. Yes.

23 Q. You described that he moved his arm like
24 that, and you never really described what you
25 meant.

1 property in a bag. So his hands are like this
2 (indicating).

3 Q. Both hands are on the counter?

4 A. On the counter. And Morgan Thompson was
5 here.

6 Q. When you say "here," which side are you
7 referring to?

8 MS. BROOM:

9 Yes. Articulate "here." To his left
10 side?

11 A. Morgan Thompson was over here on the
12 left side.

13 MR. BRENDL:

14 Q. Was there another correctional officer
15 on the right side?

16 A. Yeah. Morgan Thompson would have been
17 behind, like on the right side.

18 Q. Okay. I'm getting confused now. You're
19 saying Morgan Thompson on the left and --

20 A. Morgan Thompson on the left. I mean,
21 Wills was over on the other side.

22 Q. So Morgan Thompson was on the left,
23 Wills was on the right side; is that correct?

24 A. Right, right.

25 Q. All right. Go ahead.

1 A. And then the hand went up like that
2 (indicating).

3 Q. Okay. I want you to describe what "like
4 that" means.

5 A. It means a very quick strike to Morgan
6 Thompson.

7 Q. Was it with a closed fist or an open
8 fist; can you remember?

9 A. I couldn't tell whether it was an open
10 or closed fist. All I saw was a very quick
11 movement up to -- like a back-hand to his facial
12 area.

13 Q. When you made that movement, it looks
14 like the movement was with your left hand?

15 A. Right.

16 Q. Would that be Mr. Seals --

17 A. Right. It was the left arm and hand.

18 Q. And that was towards Morgan Thompson?

19 A. Yes.

20 MR. BRENDDEL:

21 Okay. Thank you. That's all the
22 questions I have.

23 **EXAMINATION**

24 BY MR. WATTS:

25 Q. I've just got two follow-ups. When you